



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

SEP 25 2014

Department of the Interior Acquisition Policy Release (DIAPR) 2014-04

Subject: Accelerated Payment to Small Business Contractors and Small Business Subcontractors

References: Office of Management and Budget (OMB) Memorandum M-11-32, *Accelerating Payments to Small Businesses for Goods and Services*, issued September 14, 2011; OMB Memorandum M-12-16, *Providing Prompt Payment to Small Business Subcontractors*, issued July 11, 2012; OMB Memorandum M-13-15, *Extension of Policy to Provide Accelerated Payment to Small Business Subcontractors*, issued July 11, 2013; OMB Memorandum M-14-10, *Extension of Policy to Provide Accelerated Payment to Small Business Subcontractors*, issued July 10, 2014; Federal Acquisition Regulation (FAR) 12.301, *Solicitation Provisions and Contract Clauses for the Acquisition of Commercial Items*; FAR 32.009, *Providing Accelerated Payments to Small Business Subcontractors*; FAR 52.232-40, *Providing Accelerated Payments to Small Business Subcontractors* (DEC 2013); and DIAPR 2012-11, Amendment 3: *Class Deviation—Providing Accelerated Payment to Small Business Subcontractors*, and all previous versions.

1. Purpose:

The purpose of this DIAPR is to promulgate OMB's extension of policy to accelerate payment to all prime contractors, to the full extent permitted by law, within 15 days of receipt of proper invoices in order to allow them to accelerate payment to small business subcontractors. This DIAPR also reminds bureaus and offices to insert FAR Clause 52.232-40, *Providing Accelerated Payments to Small Business Subcontractors* (DEC 2013) in all solicitations and contracts; and provides guidance on using proper payment terms to allow accelerated payment to all vendors.

2. Effective Date: Upon signature.

3. Expiration Date: This DIAPR will remain in effect until cancelled or superseded.

4. Background and Explanation:

OMB Memorandum M-11-32, issued in September 2011, requires agencies to accelerate payment to small business prime contractors to the full extent permitted by law with the goal of making payments within 15 days of receipt of proper invoices. Subsequently, OMB established temporary policy under Memorandum M-12-16 that requires agencies to accelerate payment to all prime contractors to the maximum extent permitted by law with a goal of making payment within 15 days of receipt of proper invoices. In return, prime contractors are expected to accelerate payment to small business

subcontractors when they receive accelerated payments from the government. OMB Memorandum M-13-15 extended this policy until July 11, 2014; and OMB Memorandum M-14-10 further extended this policy to December 31, 2016, and directed agencies to continue submitting biannual reports to OMB on their progress in providing accelerated payments to small businesses in accordance with the instructions provided in OMB Memorandum M-12-16.

DIAPR 2012-11, *Class Deviation—Providing Accelerated Payment to Small Business Subcontractors*, established the use of a temporary clause until the FAR could be amended to implement the OMB policy. The FAR Council developed a new FAR clause, 52.232-40, and amended FAR Parts 12 and 32 to require contracting officers to insert the clause in solicitations and contracts to promote accelerating payments to small business subcontractors. DIAPR 2012-11, Amendment 3 rescinded the deviation after the FAR was changed.

The accelerated payment policies established by OMB M-11-32 and M-12-16, and extended by OMB M-13-15 and M-14-10, are intended to increase the cash flow for small business contractors and subcontractors to stimulate our Nation's economy. However, these policies do not provide any new rights under the Prompt Payment Act and do not affect the application of the Prompt Payment Act's late payment interest penalty provisions. Under the Prompt Payment Act, the interest penalty is triggered when an agency fails to pay a contractor the amount due by the required payment date. The OMB policies do not change the required payment date and do not otherwise modify the function of the interest penalty.

5. Action Required:

Bureaus shall review the OMB policies and are encouraged to accelerate payments with the goal of making a payment within 15 days of receipt of appropriate invoices to small business contractors and to large business prime contractors to allow them, in return, to accelerate payments to their small business subcontractors. Technical guidance on the application of payment terms is attached.

FAR 52.232-40, *Providing Accelerated Payments to Small Business Subcontractors* (DEC 2013), requires Federal prime contractors to accelerate payments to their small business subcontractors as soon as practicable when the prime contractor receives accelerated payments from the government. This clause is required to be inserted into all solicitations and resultant contracts, including FAR Part 12 acquisitions. Contracting officers shall ensure FAR 52.232-40 is included in contracts as prescribed in FAR 32.009-2 (also see FAR 12.301(d)(4) for commercial acquisitions).

If a contract includes a small business subcontracting plan, the contracting officer shall review to ensure the prime contractor is taking steps to accelerate payment to its small business subcontractors. Actions may include a prime contractor incorporating the substance of FAR 52.232-40 in subcontracts with small business concerns, including subcontracts with small business concerns for the acquisition of commercial items.

6. Additional Information:

General questions about this DIAPR may be directed to Scott Curit, Senior Procurement Analyst, Office of Acquisition and Property Management, at (202) 513-0719 or by e-mail at Scott_Curit@ios.doi.gov. Questions regarding payment terms may be directed to the FBMS Accounts Payable team at FBMS_AP@ios.doi.gov.

A handwritten signature in black ink, appearing to read "Debra E. Sonderman".

Debra E. Sonderman, Director
Office of Acquisition and Property Management

Attachment

Attachment to DIAPR 2014-04
Application of Accelerated Payment Terms

Accelerated payment terms are built into the Financial Business Management System (FBMS) configuration. Bureaus and offices are not required to change the payment terms on either contracts to large businesses or the invoices to ensure accelerated payment within 15 days. The Business Integration Office has changed the settings on the nightly Treasury payment program to pull all payments early and pay within 15 days regardless of the payment terms on either the contract or invoice. This automatically accelerates all payments regardless of the payment terms contained on the invoice or contract to a large business.

The contract payment term (e.g. PP30, PP10, PP14, etc.) should always be used on contracts to large businesses for the following reasons:

- Proper interest and due date calculations are still required. The correct payment term must be on the contract and invoice for the system to perform these calculations.
- Any contract with an accelerated payment term for a large business must be modified at the time OMB Memorandum M-14-10 expires in December 2016 if an accelerated term is placed on the contract for the sole purpose of meeting the requirements of the OMB policies. This will require a large workload for the Acquisition community to modify all contracts back to the proper payment term.

Bureaus should only use the Accelerated Payment terms on contracts to small businesses, emergencies, and other categories of contracts where allowed by the FAR.